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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/344,795	06/25/1999	NICHOLAS D. EVANS	044508.0005	9466

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EXAMINER

REAGAN, JAMES A

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 07/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/344,795

Applicant(s)

EVANS, NICHOLAS D.

Examiner

James A. Reagan

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-25 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-25 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### Status of Claims

1. This action is in response to the amendment received on 22 April 2002.
2. Claims 2, 15, and 16 have been amended (paper # 6).
3. Claims 1, 26-32, and 36-45 have been cancelled (paper # 6).
4. Claims 2-25 and 33-35 have been examined.
5. The rejection of claims 2-25 has been updated to reflect the amended limitations.
6. The rejections of claims 33-35 are unchanged.

### Oath/Declaration

7. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.
8. The oath or declaration is defective because the title on the application is different from the title on the oath/declaration page. See MPEP § 601.01(a). The title on the declaration reads, "Electronic Customer Service System and Method", while the title in the Specification reads, "Electronic Customer Service *and Rating* System and Method."

### Specification

9. The Examiner thanks the applicant for acknowledging the unintentional flaw in the specification with regard to the claims section. Although the Applicant has

intended to submit a clean version of the claims section, it seems that no submission was included in the Response and Amendment (paper #6). Therefore, the objection to the specification regarding the claims section is maintained.

10. The rejection of claims 15 and 16 under 35 U.S.C. 112 has been withdrawn. The examiner thanks the applicant for correcting the lack of antecedent basis. However, It appears that although the applicant has intended to amend claim 19 to overcome the rejection under 35 U.S.C. 112, the examiner sees no written indication that claim has been changed. Although the Applicant indicates on the first page of the Response and Amendment his intention to amend claim 19, a new version is not presented either in the clean section or the marked-up section. In fact, claim 18 is shown in the marked-up section. Since there is no corroborating indication that claim 18 was intended to be altered, the Examiner will assume that the inclusion of claim 18 in the marked-up section is an unintentional mistake, and will disregard any changes to the claim as indicated in the marked-up section. The rejection of claim 19 under U.S.C. 112 is therefore maintained.

#### **RESPONSE TO ARGUMENTS**

11. Applicant's arguments received on 12 March 2002 have been fully considered but they are not persuasive. Referring to the previous Office action, examiner

has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims except where noted. This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.

12. Applicant's arguments with respect to claim 2 have been considered but are moot in view of the new ground(s) of rejection. However, for the purposes of clarification, the Examiner has provided a short narrative with regard to the limitations pertaining to notification.
13. With regard to the limitations of independent claim 2, Applicant argues, "There is not any mechanism, nor is any such mechanism suggested or taught, from eBay that there is any 'notification' of specially applicable comments lodged by the consumer or, that any such notification is provided particularly to the applicable company if any is received." Examiner disagrees, and introduces reference U of the enclosed PTO form 892 (paper #7). Although reference U is not used in any rejection of the pending claims or their limitations, it is supplied merely to show the state-of-the-art of notification procedures. Reference U is a continuation of the current eBay web pages available on the World Wide Web, and as such, is marked enclosure "21". In it, Ebay shows the eBay ID card, which notifies the buyer or the seller of any new comments received in the last 7 days, as well as

listing the comment in its entirety below. Notification of comments and feedback is an old and well-known practice in the customer service arts, as evidenced by eBay. Although this reference does not precede the filing date of the application, the references as cited in the conclusion section of this Office action provide a priority date preceding the application's filing date.

14. The following is a **Non-Final Rejection** of all claims and associated limitations pending in the current application as amended in paper #6.

**Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the *entire* reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

#### **Claim Rejections - 35 USC § 112**

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16. Claims 5-9, 11-13, 19, and 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 5-9, 11-13, and 23-25:**

These claims each depend from claim 1, which has been cancelled in paper #6.

**Claim 19:**

The term "forcing" in claim 19 implies that the user has no choice but to register, which renders the claim vague and indefinite, since it is not clear how the user is obligated to register. The term "forcing" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. The examiner respectfully suggests the term "requiring" in place of "forcing."

**Claim Rejections - 35 USC § 103**

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 2-11, 15-22, 24, 25, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over EBAY in view of Prince, "'Online Auctions at eBay."

**Claim 2:**

EBAY discloses:

Receiving a comment from the buyer about a product or service purchased from a seller on their auction site (enclosures 2 and 3).

The comment is stored for future reference (enclosures 2 and 4).

Users may access and review historical feedback through the network (enclosures 2 and 5).

Notifications (enclosure 6 and enclosure 21).

User (company) logs in and queries the database for comments left for the user (enclosures 7 and 4).

Company responds to the comment left by the buyer (enclosure 4).

The response is stored for future reference (enclosures 2 and 4).

Users may access and review historical feedback through the network (enclosures 2 and 5).

Ebay does not specifically disclose a "notification" of specially applicable comments lodged by the consumer or, that any such notification is provided particularly to the applicable company if any is received. However, Prince, on page 425 does show the eBay ID card, wherein a buyer or seller is notified about new feedback left for them. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the notification method of eBay as shown by Prince because new feedback may contain valuable insight into the



business-related conduct of a company, thereby providing a company with the means to improve customer service.

**Claim 3:**

The feedback history about the company is displayed (enclosure 8).

**Claim 4:**

Notifications (enclosure 6).

User (buyer) logs in and queries the database for comments or responses left for the user (enclosures 7 and 4).

User reviews the comments and responses (enclosure 8).

**Claim 5:**

Comments and rating scheme (enclosure 2).

**Claim 6:**

Comments and rating scheme (enclosure 2).

**Claim 7:**

EBAY transacts business with a plurality of buyers and sellers worldwide, each participant being rated by the same rating system (enclosure 2).

**Claim 8:**

Assigning values to each comment (enclosure 2).

Compiling the values (enclosure 2).

Ranking the scores (enclosure 10).

Providing access to the ratings over the network (enclosures 2 and 5).

**Claim 9:**

Sorting by complaint or praise (enclosure 11).

Assigning numeric values (enclosure 11).

Compiling comments and adding values (enclosure 11).

Providing access to the comments (enclosure 11).

**Claim 10:**

Email notification (enclosure 6).

**Claim 11:**

Feedback data entry form (enclosure 12).

**Claim 15:**

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11).

Email notification (enclosure 6).

**Claim 16 :**

Email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer).

Buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

**Claim 17:**

Feedback data entry form (enclosure 12).

**Claim 18:**

Registering on EBAY (enclosure 15).

**Claim 19:**

Registration is required before a company may buy and sell products and services on EBAY, as well as send and receive comments and feedback. After the log in query, a company may fill out a registration data form to access EBAY products and services (enclosure 15).

**Claim 20:**

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11).  
Email notification (enclosure 6).

**Claim 21:**

Email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer).

Buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

**Claim 22:**

Email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer).

Buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

**Claim 24:**

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11).  
Email notification (enclosure 6).

**Claim 25:**

Communication is accomplished over the online over the Internet, as well as with other communication systems that operate separately or in conjunction with the Internet (enclosure 1).

**Claims 33-35:**

Inherently, computers, servers, and databases are comprised of processors, memory devices, communication devices, application programs and code written to control and utilize the various hardware components of a computer networking system. Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible

through a network connection. Furthermore, software code written specifically for the purpose of implementing the tasks outlined in the limitations recited in claims 33-35 have been inherently disclosed in the rejections of Claims 1-32 above.

19. Claims 12-14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over eBay in view of Prince, further in view of Himmel et al. (US 6,037,9340).

**Claims 12, 13, 14, and 23:**

EBAY discloses the system of providing feedback communications in the rejection of claim 1 above. EBAY does not specifically disclose using HTML formats (dynamic and static), JAVA applets, ActiveX controls, or XML formats. Himmel, however, does disclose the use of HTML, JAVA, and ActiveX (column 15, lines 21-25), as well as XML (column 21, line 34) when accessing and viewing web pages. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize HTML formats (dynamic and static), JAVA applets, ActiveX controls, or XML formats when constructing the data forms because these formats are widely used throughout the Internet community and provide an efficient and uncomplicated means for gathering, storing, accessing, and displaying data through a network communication system. Utilizing these common protocols and formats provides a universal and familiar landscape for promoting electronic feedback.

**Conclusion**

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following articles have been cited to provide a priority date.

(a) The Wayback Machine. <http://www.archive.org/>. Evidence of eBay feedback procedures and web pages from January 1999.

**Examiners note:** The preceding is a brief description and background of eBay provided on their web site. For the purposes of this Office action and providing a known priority date, examiner has used The Internet Archive's search engine, the Wayback Machine. The Wayback Machine makes it possible to surf pages stored in the Internet Archive's web archive. All applicable prior art used in this Office action has been derived from web pages archived on 25 January 1999.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **James A. Reagan** whose telephone number is **(703) 306-9131**. The examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **James Trammel** can be reached at (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703)305-3900**.

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**


or faxed to:

<b>(703)305-7687</b>	[Official communications; including After Final communications labeled "Box AF"]
<b>(703)308-1396</b>	[Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451  
Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

JAR

30 June 2002

  
**KYLE J. CHOI**  
**PRIMARY EXAMINER**  
*Art Unit 3623*